

Proposed technical correction:

**SECTION #.(a)** G.S. 122C-263(a) reads as rewritten:

**[§ 122C-263. Duties of law enforcement officer; first examination.]**

"(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated or required to provide transportation pursuant to G.S. 122C-251(g) shall take the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening at the same location, ~~unless exigent circumstances require the respondent be transported to an emergency department indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent.~~ If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location for health screening and first examination exists, the person designated to provide transportation shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for ~~the mentally ill.~~ individuals with mental illnesses. If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general hospital, or in a State facility for ~~the mentally ill.~~ individuals with mental illnesses, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services."

[(a1) A facility or other location to which a respondent is transported under subsection (a) of this section shall provide a health screening of the respondent. The health screening shall be conducted by a commitment examiner or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The Department will work with commitment examiner professionals to develop a screening tool for this purpose. The respondent may either be in the physical face-to-face presence of the person conducting the screen or may be examined utilizing telemedicine equipment and procedures. Documentation of the health screening required under this subsection that is completed prior to transporting the patient to any general hospital, acute care hospital, or designated facility shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

(b) The examination set forth in subsection (a) of this section is not required under any of the following circumstances:

- (1) The affiant who obtained the custody order is a commitment examiner who recommends inpatient commitment.
- (2) The custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and the respondent was found incapable of proceeding.
- (3) Repealed by Session Laws 1987, c. 596, s. 3.

In any of these cases, the law enforcement officer or person designated under G.S. 122C-251(g) shall take the respondent directly to a 24-hour facility described in G.S. 122C-252.

(c) The commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours after the respondent is presented for examination. When the examination set forth in subsection (a) of this section is performed by a commitment examiner, the respondent may either be in the physical face-to-face presence of the commitment examiner or may be examined utilizing telemedicine equipment and procedures. A commitment examiner who examines a respondent by means of telemedicine must be satisfied to a reasonable medical certainty that the determinations made in accordance with subsection (d) of this section would not be different if the examination had been done in the physical presence of the commitment examiner. A commitment examiner who is not so satisfied must note that the examination was not satisfactorily accomplished, and the respondent must be taken for a face-to-face examination in the physical presence of a person authorized to perform examinations under this section. As used in this section, "telemedicine" is the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations. A recipient is referred by one provider to receive the services of another provider via telemedicine.

The examination shall include an assessment of at least all of the following with respect to the respondent:

- (1) Current and previous mental illness and mental retardation including, if available, previous treatment history.
- (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined in G.S. 122C-3(11)b.
- (3) Ability to survive safely without inpatient commitment, including the availability of supervision from family, friends or others.
- (4) Capacity to make an informed decision concerning treatment.

(d) After the conclusion of the examination the commitment examiner shall make the following determinations:

- (1) If the commitment examiner finds all of the following:
  - a. The respondent is mentally ill.
  - b. The respondent is capable of surviving safely in the community with available supervision from family, friends, or others.
  - c. Based on the respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11).
  - d. The respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision to seek voluntarily or comply with recommended treatment.

The commitment examiner shall so show on the examination report and shall recommend outpatient commitment. In addition the commitment examiner shall show the name, address, and telephone number of the proposed outpatient treatment physician or center in accordance with subsection (f) of this section. The person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's

consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody.

- (2) If the commitment examiner finds that the respondent is mentally ill and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., the commitment examiner shall recommend inpatient commitment, and shall so show on the examination report. If, in addition to mental illness and dangerousness, the commitment examiner also finds that the respondent is known or reasonably believed to be mentally retarded, this finding shall be shown on the report. Upon notification, the law enforcement officer or other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing. To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing within six hours of notification. If there is no area 24-hour facility and if the respondent is indigent and unable to pay for care at a private 24-hour facility, the law enforcement officer or other designated person shall take the respondent to a State facility for the mentally ill designated by the Commission in accordance with G.S. 143B-147(a)(1)a. for custody, observation, and treatment and immediately notify the clerk of superior court of this action. If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision at the site of the first examination. Upon the commitment examiner's determination that a 24-hour facility is available and medically appropriate, the law enforcement officer or other designated person shall transport the respondent after receiving a request for transportation by the facility of the commitment examiner. To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall transport the respondent without unnecessary delay and within six hours after receiving a request for transportation by the facility of the commitment examiner. At any time during the respondent's temporary detention under appropriate supervision, if a commitment examiner determines that the respondent is no longer in need of inpatient commitment, the proceedings shall be terminated and the respondent transported and released in accordance with subdivision (3) of this subsection. However, if the commitment examiner determines that the respondent meets the criteria for outpatient commitment, as defined in subdivision (1) of this subsection, the commitment examiner may recommend outpatient commitment, and the respondent shall be transported and released in accordance with subdivision (1) of this subsection. Any decision to terminate the proceedings or to recommend outpatient commitment after an initial recommendation of inpatient commitment shall be documented and reported to the clerk of superior court in accordance with subsection (e) of this section. If the respondent is temporarily detained and a 24-hour facility is not available or medically appropriate seven days after the issuance of the custody order, a commitment examiner shall report this fact to the clerk of superior court and

the proceedings shall be terminated. Termination of proceedings pursuant to this subdivision shall not prohibit or prevent the initiation of new involuntary commitment proceedings when appropriate. A commitment examiner may initiate a new involuntary commitment proceeding prior to the expiration of this seven-day period, as long as the respondent continues to meet applicable criteria. Affidavits filed in support of proceedings terminated pursuant to this subdivision may not be submitted in support of any subsequent petitions for involuntary commitment. If the affiant initiating new commitment proceedings is a commitment examiner, the affiant shall conduct a new examination and may not rely upon examinations conducted as part of proceedings terminated pursuant to this subdivision.

In the event an individual known or reasonably believed to be mentally retarded is transported to a State facility for the mentally ill, in no event shall that individual be admitted to that facility except as follows:

- a. Persons described in G.S. 122C-266(b);
- b. Persons admitted pursuant to G.S. 15A-1321;
- c. Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or his designee; and
- d. Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or his designee.

Individuals transported to a State facility for the mentally ill who are not admitted by the facility may be transported by law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed.

- (3) If the commitment examiner finds that neither condition described in subdivisions (1) or (2) of this subsection exists, the proceedings shall be terminated. The person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county and the respondent shall be released from custody.

(e) The findings of the commitment examiner and the facts on which they are based shall be in writing in all cases. The commitment examiner shall send a copy of the findings to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours of the time that it was signed, the physician or eligible psychologist shall also communicate his findings to the clerk by telephone.

(f) When outpatient commitment is recommended, the commitment examiner, if different from the proposed outpatient treatment physician or center, shall contact the LME/MCO that

serves the county where the respondent resides or the LME/MCO that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment. The commitment examiner shall give the respondent a written notice listing the name, address, and telephone number of the proposed outpatient treatment physician or center.

(g) The commitment examiner, at the completion of the examination, shall provide the respondent with specific information regarding the next steps that will occur.]

**SECTION #.(b)** G.S. 122C-283 reads as rewritten:

**"§ 122C-283. Duties of law enforcement officer; first examination by commitment examiner.**

(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated or required to provide transportation under G.S. 122C-251(g) shall take the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening in the same location, ~~unless exigent circumstances require the respondent be transported to an emergency department indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent.~~ If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location, the person designated to provide transportations shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for ~~the mentally ill.~~ individuals with mental illnesses. If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility if one is available; if an area facility is not available, ~~he the respondent~~ may be detained under appropriate supervision, in ~~his the respondent's~~ home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

(a1) A facility, or other location to which a respondent is transported under subsection (a) of this section, shall provide a health screening of the respondent. The health screening shall be conducted by a physician or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The respondent may either be in the physical face-to-face presence of the health screening examiner or may be examined utilizing telemedicine equipment and procedures. Documentation of the health screening required under this subsection that is completed prior to transporting the patient to any general or acute care hospital shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

(b) The examination set forth in subsection (a) of this section is not required under either of the following circumstances:

- (1) The affiant who obtained the custody order is a commitment examiner.
- (2) The respondent is in custody under the special emergency procedure described in G.S. 122C-282.

In these cases when it is recommended that the respondent be detained in a 24-hour facility, the law enforcement officer shall take the respondent directly to a 24-hour facility described in G.S. 122C-252.

(c) The commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination. The examination shall include but is not limited to an assessment of ~~the respondent's~~ all of the following:

- (1) ~~Current~~ The respondent's current and previous substance abuse including, if available, previous treatment history, and history.
- (2) ~~Dangerousness~~ The respondent's dangerousness to himself-self or others as defined in G.S. 122C-3(11).

(d) After the conclusion of the examination, the commitment examiner shall make the following determinations:

- (1) If the commitment examiner finds that the respondent is a substance abuser and is dangerous to self or others, the commitment examiner shall recommend commitment and whether the respondent should be released or be held at a 24-hour facility pending hearing and shall so show on the examination report. Based on the commitment examiner's recommendation, the law enforcement officer or other designated individual shall take the respondent to a 24-hour facility described in G.S. 122C-252 or release the respondent. If a 24-hour facility is not immediately available or medically appropriate, the respondent may be temporarily detained under appropriate supervision and the procedures described in G.S. 122C-263(d)(2) shall apply.
- (2) If the commitment examiner finds that the condition described in subdivision (1) of this subsection does not exist, the respondent shall be released and the proceedings terminated.

(e) The findings of the commitment examiner and the facts on which they are based shall be in writing in all cases. A copy of the findings shall be sent to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours after the time it was signed, the commitment examiner shall also communicate the findings to the clerk by telephone."

**SECTION #.**(c) This section becomes effective October 1, 2019, and applies to proceedings initiated on or after that date.

Explanation: This proposed technical correction does all of the following:

- It deletes "garbage language" from G.S. 122C-263(a) and G.S. 122C-283(a). Both S.L. 2018-33, s. 24, and S.L. 2018-76, s. 3.2(a), amended G.S. 122C-263(a), and both S.L. 2018-33, s. 34, and S.L. 2018-76, s. 3.2(b) amended G.S. 122C-283(a). S.L. 2018-76, s. 3.2(a), (b), referenced the other session law but did not engross its changes. Consequently, similar but conflicting phrases were added to G.S. 122C-263(a) and G.S. 122C-283(a), resulting in "garbage language." This proposed technical correction deletes "garbage language" so that G.S. 122C-263(a) and G.S. 122C-283(a) are set out according to the amendments in S.L. 2018-76, the later-enacted session law.

- It makes People First Language changes, makes language gender-neutral, and modernizes the format of a list.
- It borrows the effective date and applicability provision of S.L. 2018-33, ss. 24, 34, and S.L. 2018-76, s. 3.2(a), (b).

Background:

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2018-33  
SENATE BILL 630**

AN ACT REVISING THE LAWS PERTAINING TO INVOLUNTARY COMMITMENT IN ORDER TO IMPROVE THE DELIVERY OF BEHAVIORAL HEALTH SERVICES IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

...

**SECTION 24.** G.S. 122C-263 reads as rewritten:

**"§ 122C-263. Duties of ~~law-enforcement~~ law enforcement officer; first examination by ~~physician or eligible psychologist~~ examination.**

(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated ~~by the clerk or magistrate under G.S. 122C-251(g)~~ required to provide transportation pursuant to G.S. 122C-251(g) shall take the respondent to ~~an area a facility for examination by a physician or eligible psychologist; if a physician or eligible psychologist or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening at the same location, unless exigent circumstances require the respondent be transported to an emergency department.~~ If a commitment examiner is not available in the area facility, available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location for health screening and first examination exists, the person designated to provide transportation shall take the respondent to any physician or eligible psychologist locally available, a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill. If a physician or eligible psychologist commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general hospital, or in a State facility for the mentally ill, but not in a jail or other penal facility. For the

purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

(a1) A facility or other location to which a respondent is transported under subsection (a) of this section shall provide a health screening of the respondent. The health screening shall be conducted by a commitment examiner or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The Department will work with commitment examiner professionals to develop a screening tool for this purpose. The respondent may either be in the physical face-to-face presence of the person conducting the screen or may be examined utilizing telemedicine equipment and procedures. Documentation of the health screening required under this subsection that is completed prior to transporting the patient to any general hospital, acute care hospital, or designated facility shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

(b) The examination set forth in subsection (a) of this section is not required ~~if~~ under any of the following circumstances:

- (1) The affiant who obtained the custody order is a ~~physician or eligible psychologist~~—commitment examiner who recommends inpatient ~~commitment~~; commitment.
- (2) The custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and ~~he~~—the respondent was found incapable of ~~proceeding~~; or proceeding.
- (3) Repealed by Session Laws 1987, c. 596, s. 3.

In any of these cases, the ~~law enforcement~~ law enforcement officer or person designated under G.S. 122C-251(g) shall take the respondent directly to a 24-hour facility described in G.S. 122C-252.

(c) The ~~physician or eligible psychologist~~ commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 ~~hours~~, hours after the respondent is presented for examination. When the examination set forth in subsection (a) of this section is performed by a ~~physician or eligible psychologist~~ commitment examiner, the respondent may either be in the physical face-to-face presence of the ~~physician or eligible psychologist~~ commitment examiner or may be examined utilizing telemedicine equipment and procedures. A ~~physician or eligible psychologist~~ commitment examiner who examines a respondent by means of telemedicine must be satisfied to a reasonable medical certainty that the determinations made in accordance with subsection (d) of this section would not be different if the examination had been done in the physical presence of the ~~physician or eligible psychologist~~. A ~~physician or eligible psychologist~~ commitment examiner. A commitment examiner who is not so satisfied must note that the examination was not satisfactorily accomplished, and the respondent must be taken for a face-to-face examination in the physical presence of a person authorized to perform examinations under this section. As used in this ~~subsection~~, section, "telemedicine" is the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations. A recipient is referred by one provider to receive the services of another provider via telemedicine.

The examination shall include ~~but is not limited to~~ an assessment of the respondent's ~~at least~~ all of the following with respect to the respondent.



- (1) Current and previous mental illness and mental retardation including, if available, previous treatment ~~history;~~history.
  - (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined in ~~G.S. 122C-3(11)b.;~~G.S. 122C-3(11)b.
  - (3) Ability to survive safely without inpatient commitment, including the availability of supervision from family, friends or ~~others;~~and others.
  - (4) Capacity to make an informed decision concerning treatment.
- (d) After the conclusion of the examination the ~~physician or eligible psychologist~~ commitment examiner shall make the following determinations:
- (1) If the ~~physician or eligible psychologist~~ commitment examiner finds that ~~all of the following:~~
    - a. The respondent is mentally ~~ill;~~ill.
    - b. The respondent is capable of surviving safely in the community with available supervision from family, friends, or ~~others;~~others.
    - c. Based on the respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by ~~G.S. 122C-3(11); and~~G.S. 122C-3(11).
    - d. The respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision to seek voluntarily or comply with recommended treatment.

The ~~physician or eligible psychologist~~ commitment examiner shall so show on the examination report and shall recommend outpatient commitment. In addition the ~~examining physician or eligible psychologist~~ commitment examiner shall show the name, address, and telephone number of the proposed outpatient treatment physician or ~~center.~~center in accordance with subsection (f) of this section. The person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody.
  - (2) If the ~~physician or eligible psychologist~~ commitment examiner finds that the respondent is mentally ill and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., the ~~physician or eligible psychologist~~ commitment examiner shall recommend inpatient commitment, and shall so show on the examination report. If, in addition to mental illness and dangerousness, the ~~physician or eligible psychologist~~ commitment examiner also finds that the respondent is known or reasonably believed to be mentally retarded, this finding shall be shown on the report. The Upon notification, the law enforcement officer or other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing. To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing within six hours of notification. If there is no area 24-hour facility and if the respondent is indigent and unable to pay for care at a private 24-hour facility, the law

enforcement officer or other designated person shall take the respondent to a State facility for the mentally ill designated by the Commission in accordance with G.S. 143B-147(a)(1)a. for custody, observation, and treatment and immediately notify the clerk of superior court of this action. If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision at the site of the first ~~examination, provided that at anytime that a physician or eligible psychologist examination.~~ Upon the commitment examiner's determination that a 24-hour facility is available and medically appropriate, the law enforcement officer or other designated person shall transport the respondent after receiving a request for transportation by the facility of the commitment examiner. To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall transport the respondent without unnecessary delay and within six hours after receiving a request for transportation by the facility of the commitment examiner. At any time during the respondent's temporary detention under appropriate supervision, if a commitment examiner determines that the respondent is no longer in need of inpatient commitment, the proceedings shall be terminated and the respondent transported and released in accordance with subdivision (3) of this subsection. However, if the ~~physician or eligible psychologist commitment examiner~~ determines that the respondent meets the criteria for outpatient commitment, as defined in subdivision (1) of this subsection, the ~~physician or eligible psychologist commitment examiner~~ may recommend outpatient commitment, and the respondent shall be transported and released in accordance with subdivision (1) of this subsection. Any decision to terminate the proceedings or to recommend outpatient commitment after an initial recommendation of inpatient commitment shall be documented and reported to the clerk of superior court in accordance with subsection (e) of this section. If the respondent is temporarily detained and a 24-hour facility is not available or medically appropriate seven days after the issuance of the custody order, a ~~physician or psychologist commitment examiner~~ shall report this fact to the clerk of superior court and the proceedings shall be terminated. Termination of proceedings pursuant to this subdivision shall not prohibit or prevent the initiation of new involuntary commitment proceedings when appropriate. A commitment examiner may initiate a new involuntary commitment proceeding prior to the expiration of this seven-day period, as long as the respondent continues to meet applicable criteria. Affidavits filed in support of proceedings terminated pursuant to this subdivision may not be submitted in support of any subsequent petitions for involuntary commitment. If the affiant initiating new commitment proceedings is a ~~physician or eligible psychologist, commitment examiner,~~ the affiant shall conduct a new examination and may not rely upon examinations conducted as part of proceedings terminated pursuant to this subdivision.

In the event an individual known or reasonably believed to be mentally retarded is transported to a State facility for the mentally ill, in no event shall that individual be admitted to that facility except as follows:

- a. Persons described in G.S. 122C-266(b);
- b. Persons admitted pursuant to G.S. 15A-1321;
- c. Respondents who are so extremely dangerous as to pose a serious threat to the community and to other patients committed to non-State hospital psychiatric inpatient units, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or his designee; and
- d. Respondents who are so gravely disabled by both multiple disorders and medical fragility or multiple disorders and deafness that alternative care is inappropriate, as determined by the Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or his designee.

Individuals transported to a State facility for the mentally ill who are not admitted by the facility may be transported by law enforcement officers or designated staff of the State facility in State-owned vehicles to an appropriate 24-hour facility that provides psychiatric inpatient care.

No later than 24 hours after the transfer, the responsible professional at the original facility shall notify the petitioner, the clerk of court, and, if consent is granted by the respondent, the next of kin, that the transfer has been completed.

- (3) If the ~~physician or eligible psychologist~~ commitment examiner finds that neither condition described in subdivisions (1) or (2) of this subsection exists, the proceedings shall be terminated. The person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county and the respondent shall be released from custody.

(e) The findings of the ~~physician or eligible psychologist~~ commitment examiner and the facts on which they are based shall be in writing in all cases. The ~~physician or eligible psychologist~~ commitment examiner shall send a copy of the findings to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours of the time that it was signed, the physician or eligible psychologist shall also communicate his findings to the clerk by telephone.

(f) When outpatient commitment is recommended, the ~~examining physician or eligible psychologist~~ commitment examiner, if different from the proposed outpatient treatment physician or center, ~~shall give the respondent a written notice listing the name, address, and telephone number of the proposed outpatient treatment physician or center and directing the respondent to appear at the address at a specified date and time. The examining physician or eligible psychologist before the appointment shall notify by telephone the designated outpatient treatment physician or center and shall send a copy of the notice and his examination report to the physician or center.~~ shall contact the LME/MCO that serves the county where the respondent resides or the LME/MCO that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment. The commitment examiner shall give the respondent a

written notice listing the name, address, and telephone number of the proposed outpatient treatment physician or center.

(g) ~~The physician or eligible psychologist, commitment examiner,~~ at the completion of the examination, shall provide the respondent with specific information regarding the next steps that will occur."

...

**SECTION 34.** G.S. 122C-283 reads as rewritten:

**"§ 122C-283. Duties of law-enforcement officer; first examination by ~~physician or eligible psychologist, commitment examiner.~~**

(a) Without unnecessary delay after assuming custody, the ~~law enforcement~~ law enforcement officer or the individual designated ~~by the clerk or magistrate or required to provide transportation~~ under G.S. 122C-251(g) ~~to provide transportation~~ shall take the respondent to ~~an area a facility for examination by a physician or eligible psychologist if a physician or eligible psychologist is not available in the area facility, he shall take the respondent to any physician or eligible psychologist locally available.~~ or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening in the same location, unless exigent circumstances require the respondent be transported to an emergency department. If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location, the person designated to provide transportations shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill. If a ~~physician or eligible psychologist commitment examiner~~ is not immediately available, the respondent may be temporarily detained in an area facility if one is available; if an area facility is not available, he may be detained under appropriate supervision, in his home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

(a1) A facility, or other location to which a respondent is transported under subsection (a) of this section, shall provide a health screening of the respondent. The health screening shall be conducted by a physician or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The respondent may either be in the physical face-to-face presence of the health screening examiner or may be examined utilizing telemedicine equipment and procedures. Documentation of the health screening required under this subsection that is completed prior to transporting the patient to any general or acute care hospital shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

(b) The examination set forth in subsection (a) of this section is not required ~~if~~ under either of the following circumstances:

(1) The affiant who obtained the custody order is a ~~physician or eligible psychologist, or commitment examiner.~~

- (2) The respondent is in custody under the special emergency procedure described in G.S. 122C-282.

In these cases when it is recommended that the respondent be detained in a 24-hour facility, the ~~law enforcement~~ law enforcement officer shall take the respondent directly to a 24-hour facility described in G.S. 122C-252.

(c) The ~~physician or eligible psychologist~~ commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination. The examination shall include but is not limited to an assessment of the respondent's:

- (1) Current and previous substance abuse including, if available, previous treatment history; and

- (2) Dangerousness to himself or others as defined in G.S. 122C-3(11).

(d) After the conclusion of the ~~examination~~ examination, the ~~physician or eligible psychologist~~ commitment examiner shall make the following determinations:

- (1) If the ~~physician or eligible psychologist~~ commitment examiner finds that the respondent is a substance abuser and is dangerous to ~~himself~~ self or others, ~~he~~ the commitment examiner shall recommend commitment and whether the respondent should be released or be held at a 24-hour facility pending hearing and shall so show on ~~the~~ his ~~the~~ examination report. Based on the ~~physician's or eligible psychologist's recommendation~~ commitment examiner's recommendation, the ~~law enforcement~~ law enforcement officer or other designated individual shall take the respondent to a 24-hour facility described in G.S. 122C-252 or release the respondent. If a 24-hour facility is not immediately available or medically appropriate, the respondent may be temporarily detained under appropriate supervision and the procedures described in G.S. 122C-263(d)(2) shall apply.
- (2) If the ~~physician or eligible psychologist~~ commitment examiner finds that the condition described in subdivision (1) of this subsection does not exist, the respondent shall be released and the proceedings terminated.

(e) The findings of the ~~physician or eligible psychologist~~ commitment examiner and the facts on which they are based shall be in writing in all cases. A copy of the findings shall be sent to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours ~~of~~ after the time ~~that~~ it was signed, the ~~physician or eligible psychologist~~ commitment examiner shall also communicate ~~his~~ the findings to the clerk by telephone."

...

**SECTION 46.** Sections 5(c1), 44, 45(a), and 45(b) of this act are effective when the act becomes law. The remainder of this act becomes effective October 1, 2019, and applies to proceedings initiated on or after that date.

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of June, 2018.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 9:19 a.m. this 22<sup>nd</sup> day of June, 2018

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2018-76  
SENATE BILL 750**

AN ACT TO ADDRESS HEALTH ISSUES IN LOCAL CONFINEMENT FACILITIES AND TO ENSURE THAT STATE PRISONS ARE FULL PARTICIPANTS IN THE NC HEALTH INFORMATION EXCHANGE KNOWN AS NC HEALTHCONNEX, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES; TO AMEND THE DUTIES OF LAW ENFORCEMENT OFFICERS PERTAINING TO INVOLUNTARY COMMITMENT; TO AMEND THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES REPORTING SYSTEM PERTAINING TO THE PRACTICE OF VETERINARY MEDICINE; TO REQUIRE CONTINUING EDUCATION FOR VETERINARIANS ON ABUSE OF CONTROLLED SUBSTANCES; TO INCLUDE THE NORTH CAROLINA VETERINARY MEDICAL BOARD ON THE PRESCRIPTION DRUG ABUSE ADVISORY COMMITTEE; AND TO AMEND VARIOUS BUDGET PROVISIONS.

The General Assembly of North Carolina enacts:

...

**SECTION 3.2.(a)** If Senate Bill 630, 2018 Regular Session, becomes law, then G.S. 122C-263(a), as enacted by Section 24 of that bill, reads as rewritten:

"(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated ~~by the clerk or magistrate under G.S. 122C-251(g)~~ required to provide transportation pursuant to G.S. 122C-251(g) shall take the respondent to ~~an area a facility for examination by a physician or eligible psychologist; if a physician or eligible psychologist or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening at the same location, unless circumstances indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available in the area facility, available, whether on-site, on-call, or via telemedicine,~~

at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location for health screening and first examination exists, the person designated to provide transportation shall take the respondent to ~~any physician or eligible psychologist locally available~~ a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill. If a ~~physician or eligible psychologist~~ commitment examiner is not immediately ~~available~~ available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general hospital, or in a State facility for the mentally ill, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services."

**SECTION 3.2.(b)** If Senate Bill 630, 2018 Regular Session, becomes law, then G.S. 122C-283(a), as enacted by Section 34 of that bill, reads as rewritten:

"(a) Without unnecessary delay after assuming custody, the ~~law enforcement~~ law enforcement officer or the individual designated ~~by the clerk or magistrate or required to provide transportation~~ under G.S. 122C-251(g) ~~to provide transportation~~ shall take the respondent to ~~an area~~ a facility for examination by a physician or eligible psychologist if a physician or eligible psychologist is not available in the area facility, ~~he shall take the respondent to any physician or eligible psychologist locally available~~ or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening in the same location, unless circumstances indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location, the person designated to provide transportations shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill. If a ~~physician or eligible psychologist~~ commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility if one is available; if an area facility is not available, he may be detained under appropriate supervision, in his home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services."

**SECTION 3.2.(c)** This section becomes effective October 1, 2019, and applies to proceedings initiated on or after that date.

...

**SECTION 10.** Section 5 of this act becomes effective January 1, 2020. Section 6 of this act becomes effective January 1, 2019. G.S. 90-113.73(g), as enacted by Section 6 of this act, expires effective October 1, 2019. Section 8 of this act is effective when it becomes law and applies to renewal applications received in 2020. The remainder of this act is effective when it becomes

law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of June, 2018.

s/ Bill Rabon  
Presiding Officer of the Senate

s/ David R. Lewis  
Presiding Officer of the House of Representatives

s/ Roy Cooper  
Governor

Approved 10:42 a.m. this 25<sup>th</sup> day of June, 2018